

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
TOWN OF NEW HARTFORD MUNICIPAL BUILDING
MARCH 18, 2019**

The Regular Meeting was called to order at approximately 6:10 P.M. by Chairman Randy Bogar. Board Members present were John Montrose, Karen Stanislaus; Byron Elias, and Fred Kiehm. Board Members absent: Taras Tesak and Lenora Murad. Also in attendance were Councilmen David Reynolds and Richard Lenart; Town Attorney Herbert Cully; Code Officer Joseph Booth; and Secretary Dory Shaw. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting. He also mentioned that two Board Members are not in attendance and explained the number of votes needed for approval.

The application of **Mr. Steven Hettinger, 51 Woodberry Road, New Hartford, New York**. The applicant is located in a Low Density Residential zone, which requires that the front yard setback be 30' or equal to the average setback which setback is less. Applicant is proposing to plan a garage and front porch in the required front yard setback. The proposed roof will extend into required front setback by 9'± and the garage will extend 6'±. Therefore, the applicant is seeking a 9'± front yard area setback. Tax Map #339.001-2-40; Lot Size: 269' x 195'; Zoning: Low Density Residential. Mr. Hettinger appeared before the Board. Mr. & Mrs. Hettinger appeared before the Board with their contractor, Mr. Michael Bonacci.

Mr. Hettinger presented sketches and diagrams of the proposed project. He explained how long they have owned the house and how his job had taken him away for many years – he and his wife are now retired and they want to update this home. He detailed what exists in the home now and how they have updated each room. Mr. Hettinger mentioned the roof of the new garage would be higher than the existing garage but not the house. Everything will match with new materials. The intent is to make it look like it was built all at one time rather than just adding an addition. They want this compatible to live out their lives there. He does not feel this will affect anyone's view. Mr. Hettinger explained that he measured this property and it is 5.8' at the garage encroachment into the 30' and 8.4' at the porch. He had the property surveyed last year and feels it is accurate. The house that is adjacent, he comes close to the 15' offset on the side. However, he is still within the requirement – he will make it work. He explained the planter area in the front of the house. Mr. Hettinger explained the upper floor and he is adding two bedrooms to it. He needs the extra room and he has many nostalgia items. They are putting in an elevator also.

Board Member Elias referred to the driveway coming straight in. It is going to stay very close. He hasn't figured it out yet. The tree will not be taken down.

Board Member Kiehm asked if anyone has been living in the house – no. However, he had the property taken care of to be able to maintain it – their intent was to move back.

Chairman Bogar asked if there was anyone present to address this application:

-Mr. Warren Hall, 62 Woodberry Road. He questioned the measurements for the front yard. Mr. Hettinger explained the setbacks. Also, there is a 14' easement area between the offset and paving. Mr. Hall is concerned about the appearance and questioned his financial decision. He also asked if he considered making the addition to the rear. Mr. Hettinger said he could not as the lot line gets into the side setback and he can't take it back any further. He wants the garage 40' deep for his collectible cars, boat, etc. Mr. Hall questioned the work time being done at the site by Bonacci Contracting – are you running a business? Mr. Hettinger said no but he is remodeling the whole house, every single room and it takes time. Mr. Hall thinks the house is closer to the street.

There being no further questions, the Public Hearing closed at approximately 6:40 P.M.

Board Member Elias said he measured the plan and it came to the middle of the sidewalk and it was much less intrusive. He explained this to Mr. Hall and it is still a good distance away.

At this time, the Board Members reviewed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response; no, all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response; no, all in agreement – this improves the area;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member Fred Kiehm to approve the application of Mr. Hettinger as submitted; seconded by Board Member Karen Stanislaus; and that a Building Permit be obtained within one year of approval date. Vote taken:

Chairman Randy Bogar - yes
Board Member Fred Kiehm - yes
Board Member Karen Stanislaus - yes

Board Member Byron Elias - yes
Board Member John Montrose - yes

Motion was **approved** by a vote of 5 – 0.

The application of **Mr. Richard Penna, 10 Regency Road, New Hartford, New York (corner lot)**. The applicant is proposing to add a 21' x 7'± roofed porch to the existing front porch into the required front yard setback. The proposed roof will extend into the required front yard setback on Regency Road by 3'±. This property is located in a Medium Density Residential zone, which requires that the front yard setback be 30' or equal to the average setback, which setback is less. Therefore, the applicant is seeking a 3'± front yard setback Area Variance. Tax Map #339.015-2-35; Lot Size: 125' x 167' (corner lot); Zoning: Medium Density Residential. Mr. & Mrs. Penna appeared before the Board.

Mr. Penna explained that they sold their house on Higby Road and is renting an apartment at this time. They are renovating this home to downsize and make it more wheelchair compatible. At the front entrance there will be a slab extended 3' but it will become one solid slab.

Mr. Penna wanted to thank Code Officer Joseph Booth and Secretary Dory Shaw, as they were extremely helpful during his project. Mr. Booth has been to his house for inspections and he does an excellent job. The roof will be new and everything will blend. He feels he is making the house look better.

Chairman Bogar asked if there was anyone present to address this application. No response, however, there was a letter submitted with the following people who are in favor of the application:

- Eugene and Alicia Elwood, 11 Regency Road
- Amy Palmer, 8 Regency Road.

There being no further input, the Public Hearing closed at approximately 6:50 P.M.

At this time, the Board Members reviewed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response; no, all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response; no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member John Montrose to approve the application of Mr. Penna as submitted; seconded by Board Member Fred Kiehm; and that a Building Permit be obtained within one year of approval date. Vote taken:

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| Chairman Randy Bogar - yes | Board Member Byron Elias - yes |
| Board Member Fred Kiehm - yes | Board Member John Montrose - yes |
| Board Member Karen Stanislaus - yes | |

Motion was **approved** by a vote of 5 – 0.

The application of Kassis Superior Signs for **Marquee Cinema, 20 Ellinwood Drive, New Hartford, New York**. The applicant would like to replace the existing building sign with a similar size sign. This property is located in a C1 zone, which requires that the maximum signage area is 100 square feet. The applicant is requesting a 140 square foot replacement of the existing sign of the same size. This will necessitate an Area Variance of 40± square feet. Tax Map #316.020-1-11.5; Zoning: C1 General Commercial. Mr. James Cox, Chief Operating Officer for Marquee Cinemas appeared before the Board.

Mr. Cox explained that the Marquee signage is outdated and he wants this sign to have a new look and logo. It will be an LED sign. He wants to remove all the ribbon and stars on the current sign, which takes up a lot of signage. It will also go in conjunction with the lobby (they will put the same logo sign on the inside). This will create a much cleaner look. Mr. Cox explained what is transpiring at the theater now and the renovations completed and what is yet to come.

Chairman Bogar asked if there is anyone present to address this application – no response. The Public Hearing closed at approximately 7:00 P.M.

At this time, the Board Members reviewed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response; no, all in agreement – they are actually downsizing with the removal of the stars and ribbons;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response; no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member Byron Elias to approve the application of the Marquee Cinema as submitted; seconded by Board Member Karen Stanislaus; and that a Building Permit be obtained within one year of approval date. Vote taken:

Chairman Randy Bogar - yes
Board Member Fred Kiehm - yes
Board Member Karen Stanislaus - yes

Board Member Byron Elias - yes
Board Member John Montrose - yes

Motion was **approved** by a vote of 5 – 0.

Draft minutes of the January 28, 2019 Zoning Board of Appeals were received by each Board Member. Motion was made by Board Member John Montrose to approve the minutes as written; seconded by Board Member Byron Elias. All in favor.

*Note: there are no February 25, 2019 minutes as the meeting was cancelled due to a snowstorm.

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There being no further business, the meeting adjourned at approximately 7:05 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Zoning Board of Appeals

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